

HOUSE BILL NO. 535

INTRODUCED BY L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF OIL PRODUCTION FROM STRIPPER WELLS PRODUCING 3 BARRELS A DAY OR LESS; DEFINING "STRIPPER WELL BONUS"; PROVIDING THAT STRIPPER WELL BONUS PRODUCTION IS TAXED AT 6 PERCENT OF GROSS TAXABLE VALUE IF THE PRICE OF OIL AS REPORTED BY THE WALL STREET JOURNAL IS EQUAL TO OR GREATER THAN \$38 A BARREL; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-36-303, MCA, is amended to read:

"15-36-303. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of revenue provided for in 2-15-1301.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

(6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

(7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.

1 (8) "Horizontally completed well" means:

2 (a) a well with one or more horizontal drain holes; and

3 (b) any other well classified by the board as a horizontally completed well.

4 (9) "Incremental production" means:

5 (a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery
6 recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of
7 production is in excess of the production decline rate established under the conditions existing before:

8 (i) the commencement of the recompletion of a well as a horizontally completed well;

9 (ii) expansion of the existing enhanced recovery project; or

10 (iii) commencing a new enhanced recovery project; or

11 (b) in the case of any project that had no taxable production prior to commencing the enhanced
12 recovery project, all production of oil from the enhanced recovery project.

13 (10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at
14 the wellhead.

15 (11) "New enhanced recovery project" means an enhanced recovery project that began development
16 after December 31, 1993.

17 (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,
18 development, and operation costs of the lease or unit, except for production taxes.

19 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are
20 produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the
21 wellhead.

22 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who
23 owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil
24 or natural gas is extracted or produced.

25 (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces
26 oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the
27 first month of qualifying as a post-1999 well.

28 (16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

29 (17) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the
30 natural pressure of the oil reservoir and includes artificial lift.

(18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method approved by the board, that must be determined for a project area prior to commencing a new or expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved production decline rate must be certified in writing to the department by the board. In that certification, the board shall identify the project area and shall specify the projected rate of future oil production by calendar year and by calendar quarter within each year. The certified rate of future oil production must be used to determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

(19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying production.

(b) Qualifying production does not include oil production from a horizontally recompleted well.

(20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following requirements:

(a) The project must be certified as a secondary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated according to the specifications required by the board.

(c) The project must involve the application of secondary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary recovery methods include but are not limited to:

(i) the injection of water into the producing formation for the purposes of maintaining pressure in that formation or for the purpose of increasing the flow of oil from the producing formation to a producing well bore; or

(ii) any other method approved by the board as a secondary recovery method.

(21) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately

preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(22) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but less than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter. ~~There is no stripper well exemption tax rate if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is more than \$38 a barrel.~~

(b) The average price for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(c) Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(23) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be determined as provided in subsection (22)(c).

(24) "Tertiary recovery project" means an enhanced recovery project, other than a secondary recovery project, using a tertiary recovery method that meets the following requirements:

(a) The project must be certified as a tertiary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated in the certification according to the specifications required by the board.

(c) The project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary recovery methods include but are not limited to:

(i) miscible fluid displacement;

(ii) steam drive injection;

- (iii) micellar/emulsion flooding;
- (iv) in situ combustion;
- (v) polymer augmented water flooding;
- (vi) cyclic steam injection;
- (vii) alkaline or caustic flooding;
- (viii) carbon dioxide water flooding;
- (ix) immiscible carbon dioxide displacement; or
- (x) any other method approved by the board as a tertiary recovery method.

(25) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the control of one operator or producer.

(26) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who bears any portion of the exploration, development, and operating costs of the well or wells."

Section 2. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in

which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 4 more than 3 barrels <u>FIRST 1</u> through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) <u>stripper well bonus production</u>	<u>6.0%</u>	<u>14.8%</u>
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		

1	(i) first 18 months	5.5%	14.8%
2	(ii) after 18 months:		
3	(A) pre-1999 wells	12.5%	14.8%
4	(B) post-1999 wells	9%	14.8%

5 (6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a
6 well begins following the last day of the calendar month immediately preceding the month in which oil is pumped
7 or flows, provided that notification has been given to the department.

8 (b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed
9 well for the first 18 months of production begins following the last day of the calendar month immediately
10 preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed
11 well to the department by the board.

12 (ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well
13 for the first 18 months of production begins following the last day of the calendar month immediately preceding
14 the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the
15 department by the board.

16 (c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each
17 barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter
18 is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as
19 determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is
20 taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B),
21 respectively, for production occurring in that quarter, other than exempt stripper well production.

22 ~~(d) (i)~~ (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the
23 average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil
24 during a calendar quarter is less than \$38 a barrel. If the price of oil is equal to or greater than \$38 a barrel, there
25 is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed
26 as stripper well bonus production-.

27 (ii) STRIPPER WELL BONUS PRODUCTION IS SUBJECT TO TAXATION

28 ~~(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the~~
29 ~~average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil~~
30 ~~during a calendar quarter is equal to or greater than \$38 a barrel~~ ONLY IF THE AVERAGE PRICE FOR A BARREL OF OIL

1 AS REPORTED IN THE WALL STREET JOURNAL FOR WEST TEXAS INTERMEDIATE CRUDE OIL DURING A CALENDAR QUARTER
2 IS EQUAL TO OR GREATER THAN \$38 A BARREL.

3 ~~(d)~~(e) For the purposes of ~~subsection~~ subsections (6)(c) and ~~(6)(d)~~, the average price for each barrel
4 must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the
5 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the
6 quarter.

7 (7) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking
8 interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas
9 conservation pursuant to 82-11-131."

10
11 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005.

12
13 NEW SECTION. Section 4. Applicability. [This act] applies to oil produced and sold after June 30,
14 2005.

15 - END -